## **TORT- MISCELLANEOUS**

# CLIENT LEGAL SERVICES DIVISION



Military Claims Branch

#### **DEPARTMENT OF THE ARMY**



HEADQUARTERS, EIGHTH UNITED STATES ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
UNIT #15237
APO AP 96205-5237

REPLY TO ATTENTION OF:

EAJA-LS 1 November 2009

#### MEMORANDUM FOR CLAIMANTS AGAINST THE UNITED STATES GOVERNMENT

**SUBJECT: Procedures for Filing Tort Claims** 

- 1. Welcome to the Client Legal Services Division. Enclosed are instructions and forms explaining how to file a tort claim against the United States for wrongful death, personal injury, and property damage.
- 2. It is unfortunate that you have suffered a loss or injury. Our goal is to investigate and fairly settle your claim as quickly as possible. Please understand, however, that Congress and the Department of the Army have placed restrictions on our authority to pay claims of this nature. To ensure that we can pay you the full amount of money to which you are entitled under the law, it is important that you read and carefully follow the enclosed instructions, that you carefully complete all applicable claims forms, and that you submit all the required documentation to substantiate your claim.
- 3. A claims survey form is attached to this letter. We are genuinely interested in your comments regarding our service to you and welcome any suggestions for improvements. Please return this form at the time you file your claim or fold it in half and mail it postage-free through the MPS. If you have additional comments at a later time, extra survey forms are available at the Client Legal Services Division.
- 4. The Client Legal Services Division will be open Monday through Wednesday and Friday from 0900 1600 hours, and on Thursdays from 1300 1600. Our office is closed on Thursday mornings for training. Please contact our office to make an appointment to come in to file your claim. If you need assistance at any stage in the claims process, please do not hesitate to contact us at 738-4826/8242.

Encls as

DOUG J. CHOI MAJ, JA Chief, Client Legal Services Division

#### **TORT CLAIM CHECKLIST**

(Misc Items/Incidents)

The following is <u>required</u> to process a military tort claim for medical injury:
<ul> <li>Original SF 95 (sample form &amp; blank form enclosed).</li> <li>Complete blocks 1 – 19 (if not applicable, write "NA")</li> <li>Statements such as "See Attached" are not acceptable entries</li> <li>Use personal mail address, NOT local Korean residential address</li> </ul>
Documentary evidence to support your claim.
Insurance Settlement (if insurance company paid any funds accociated with loss/injury).
US Military stationed or TDY in Korea (and accompanying dependents): PCS/TDY orders to Korea, with amendments, pinpoint assignment orders, and extensions (FSTE/AIP).
US Civilian Employees stationed or TDY (and accomanying dependents): Employment documentation for current position (i.e. SF50 (DoD), DA Form 3434 (NAF), USFK Form 700-19A-E & Accreditation Letter (Invited Contractor), etc), along with extension paperwork, or TDY order. NOTE: If the above document does not reflect that you have a return rights, living quarters allowance, transportation agreement, etc., provide your original passport showing VISA/SOFA status (passport will be immediately returned upon verification).
US Personnel visiting Korea (Active Duty: copy of leave form; Civilians: original passport foverification of VISA status (passport will be immediately returned upon verification).
Reassignment documentation (if scheduled to depart).
Original Electronic Fund Transfer Worksheet (blank form enclosed).
Original Power of Attorney. You must have this if you are filing for your sponsor, spouse, or someone else.

**NOTE:** Additional documentation or information may be required in the course of the investigation. Failure to provide necessary documentation will result in action based available information.

You have two years from the date of the incident, date damaged discovered, or date you should have know the damage to exist, whichever is later, to file a claim.

If you desire copies of any forms or documents pertaining to your claim, you should make copies prior to coming to the Client Legal Services Division. If you need assistance, feel free to come by our office during normal office hours or call to speak to one of our representative.

#### SAMPLE

		~						
CLAIM FOR DA		reverse side and	d supply ional sh	ease read carefully the instructions on the y information requested on both sides of this heet(s) if necessary. See reverse side for				
Submit to Appropriate Fede	ral Agency:					t's personal representative , Street, City, State and Zip		
HQ, EUSA, Office of the S ATTN: Military Tort Claims Unit 15237 APO AP 96205-5237				code.	,	,		
TYPE OF EMPLOYMENT     MILITARY CIVILIAN	4. DATE OF BIRTH Self Explanatory	<ol><li>MARITAL S Self Explanat</li></ol>		<ol><li>DATE AND DAY OF AC Self Explanatory</li></ol>	CIDENT	7. TIME (A.M. OR P.M.) Self Explanatory		
	. ,	·		the damage, injury, or death,	identifying person			
the place of occurrence and					identifying person	s and property involved,		
Summarize in your own wo continuation of your remark		ircumstances.	DO N	OT enter "See Attached	", unless the a	ittachment is		
9.		PROPI	RTY DA	AMAGE				
NAME AND ADDRESS OF OWNER,		NT (Number, Street,	City, Sta	te, and Zip Code).				
Complete if applicable, oth		OF THE DAMAGE 4	ND THE	L COLTION OF WHERE THE PR	ODEDT/ MAY BE IN	IODEOTED		
BRIEFLY DESCRIBE THE PROPERT (See instructions on reverse side).	Y, NATURE AND EXTENT	OF THE DAMAGE A	ND THE	LOCATION OF WHERE THE PR	OPERTY MAY BE IN	ISPECTED.		
Describe the actual damag	ge as a result of the	incident.						
10.		PERSONAL INJ	JRY/WR	ONGFUL DEATH				
STATE THE NATURE AND EXTENT OF THE INJURED PERSON OR DEC	CEDENT.	JSE OF DEATH, WH	ICH FOR	RMS THE BASIS OF THE CLAIM.	IF OTHER THAN CI	LAIMANT, STATE THE NAME		
11.		w	TNESSE	S				
NAME				ADDRESS (Number, Street, Cit	y, State, and Zip Co	de)		
Self Explanatory		Self Explanat	ory					
12. (See instructions on reverse).				M (in dollars)				
12a. PROPERTY DAMAGE	12b. PERSONAL INJUR	RY	12c. \	WRONGFUL DEATH	12d. TOTAL (Fail forfeiture of	ure to specify may cause your rights).		
Self Explanatory	Self Explanatory		Self E	Explanatory	Don't forget to	o total blocks 12a-12c.		
I CERTIFY THAT THE AMOUNT OF C FULL SATISFACTION AND FINAL SE			RIES CA	USED BY THE INCIDENT ABOV	E AND AGREE TO	ACCEPT SAID AMOUNT IN		
13a. SIGNATURE OF CLAIMANT (S	See instructions on reverse	side).		13b. PHONE NUMBER OF PERS	ON SIGNING FORM			
				Self Explana	tory	Self Explanatory		
	NALTY FOR PRESENTING AUDULENT CLAIM				TY FOR PRESENTI			
The claimant is liable to the United St \$5,000 and not more than \$10,000, pi by the Government. (See 31 U.S.C. 3	lus 3 times the amount of d		an	Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)				

#### SAMPLE

INSURANCE COVERAGE								
In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurar	nce coverage of the vehicle or property.							
15. Do you carry accident Insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and	d Zip Code) and policy number. No							
Complete if applicable, otherwise enter "NA".								
16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible?	17. If deductible, state amount.							
Complete if applicable, otherwise enter "NA".	Complete if applicable							
18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is not	ecessary that you ascertain these facts).							
Complete if applicable, otherwise enter "NA".								
19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number,	Street, City, State, and Zip Code). No							
Complete if applicable, otherwise enter "NA".								

#### INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a seperate claim form

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL REPRESENTATIVE. AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the revers side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

#### PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14
- B. Principal Purpose: The information requested is to be used in evaluating claims.
- Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information
- D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

#### PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

CLAIM FOR DAMAGE, INJURY, OR DEATH	reverse side and supply	lease read carefully the instructions on the by information requested on both sides of this heet(s) if necessary. See reverse side for				
Submit to Appropriate Federal Agency: HQ, EUSA, Office of the SJA ATTN: Military Tort Claims Unit 15237 APO AP 96205-5237		Name, address of claimant, and claimar if any. (See instructions on reverse). Numbe code.				
TYPE OF EMPLOYMENT 4. DATE OF BIRTH     MILITARY	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)			
BASIS OF CLAIM (State in detail the known facts and the place of occurrence and the cause thereof. Use			ns and property involved,			
9.	PROPERTY DA	MAGE				
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMA	NT (Number, Street, City, Sta	te, and Zip Code).				
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT (See instructions on reverse side).	OF THE DAMAGE AND THE	LOCATION OF WHERE THE PROPERTY MAY BE II	NSPECTED.			
10.	PERSONAL INJURY/WR	ONGFUL DEATH				
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAL OF THE INJURED PERSON OR DECEDENT.	USE OF DÉATH, WHICH FOR	MS THE BASIS OF THE CLAIM. IF OTHER THAN C	LAIMANT, STATE THE NAME			
11.	WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Co	ode)			
12. (See instructions on reverse).	AMOUNT OF CLAIM	(in dollars)				
12a. PROPERTY DAMAGE 12b. PERSONAL INJUR	12c, \		ilure to specify may cause your rights).			
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DA FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLA		USED BY THE INCIDENT ABOVE AND AGREE TO	ACCEPT SAID AMOUNT IN			
13a. SIGNATURE OF CLAIMANT (See instructions on reverse	side).	13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE			
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS				
The claimant is liable to the United States Government for a civil \$5,000 and not more than \$10,000, plus 3 times the amount of d by the Government. (See 31 U.S.C. 3729).		Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)				

INSURANC	E COVERAGE								
In order that subrogation claims may be adjudicated, it is essential that the claimant provide	de the following information regarding the insurance coverage of the vehicle or property.								
15. Do you carry accident Insurance? Tyes If yes, give name and address of insurance.	irance company (Number, Street, City, State, and Zip Code) and policy number. No								
16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full co	overage or deductible? Yes No 17. If deductible, state amount,								
18. If a claim has been filed with your carrier, what action has your insurer taken or propos	sed to take with reference to your claim? (It is necessary that you ascertain these facts).								
19, Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No									
INSTR	uctions								
Claims presented under the Federal Tort Claims Act should be so employee(s) was involved in the incident. If the incident involves claim form.	ubmitted directly to the "appropriate Federal agency" whose s more than one claimant, each claimant should submit a seperate								
Complete all items - Insert th	e word NONE where applicable.								
A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY	DAMAGES IN A <b>SUM CERTAIN</b> FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN <b>TWO YEARS</b> AFTER THE CLAIM ACCRUES.								
Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.	The amount claimed should be substantiated by competent evidence as follows:  (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical,								
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The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.	receipts evidencing payment.  (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.								
If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.	(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.								
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FAFERWORK RED	NOTION AND INCHES								

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## **SAMPLE**

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NAME OF CLAIMANT (Last, First, Middle Initial)     Self-Explanitory	2. CLAIMANT'S INSURANCE COMPANY (If applicable) a. NAME B. POLICY NO. Self-Explanitory Self-Exlanitory	7.	(Describe the item fully, including brain name, model and size. List the nature and extent of damage. If missing, state "MISSING.")	Polo long sleeve shirt Shirt was stained on left sleeve after turning in to Quarternaster Laundry for cleaning.					ARKS	DD FORM 1844, MAY 2000
1. NAME Self-I	a. NAME Self-I	5. 6.	NO.	1					12. REMARKS	DD FO

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### **ELECTRONIC FUND TRANSFER WORKSHEET**

#### PAYEE INFORMATION

NAME (Last, First, Middle Initial):
Mailing Address:
Social Security Number:
Telephone Number (DSN or COMM):
E-Mail Address:
FINANCIAL INSTITUTION INFORMATION  NAME:
Address:
9-digit Routing Number:
Depositor Account Number:
Type of Account: Checking Savings
Claimant Signature:

#### PRIVACY ACT STATEMENT

The following information is provided to comply with the Privacy Act of 1974 (P. L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C 3322 and 31 C.F.R. 210. This information will be used by the Treasury Department to transmit payment data by electronic means to vendor's or individual's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

## **CLAIMS SURVEY**

Please answer the questions below and furnish comments to assist us in providing better service to our customers. After completing the survey, place it in either the survey box located in the Client Legal Services Division or fold it in half and mail it postage free through the Military Postal System.

1.	What was the name of the person who assisted you during your visit to our office?
2.	Is there anything you would like this person to have done differently?
3.	How would you rate the service you were provided during your visit (Check One)
	ExcellentGoodFairPoor
	Did the instructions in the claims packet adequately explain how to prepare your claim forms?  YesNo If not, what was it that was unclear to you? How could it be improved?
	· · · · · · · · · · · · · · · · · · ·
	Were you given a satisfactory explanation concerning the methods the Claims Office used to impute your claim settlement?
	YesNo If not, what other information should we have provided?
O	PTIONAL: Work Number Date

	MPS

HQ, Eighth United States Army Office of the Staff Judge Advocate ATTN: Chief, Military Claims Unit #15237 APO AP 96205-5237